

APPEAL NO. 022546
FILED NOVEMBER 6, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 10, 2002. With regard to the issues before him the hearing officer determined that the appellant (claimant) sustained a back injury on _____; that the claimant did not have disability (as defined in Section 401.011(16)) from the _____, injury; and that the respondent (self-insured) had not waived the right to contest compensability pursuant to Section 409.021. The hearing officer's determinations on the issues of injury and carrier waiver have not been appealed and have become final. Section 410.169.

The claimant appealed the disability issue, asserting that her condition had deteriorated after the date of injury to the point that she would not have been able to work (even if her employment had not been terminated) and that her doctors had taken her off work. The self-insured responded, urging affirmance.

DECISION

Affirmed

The claimant, a cashier at a retail store, sustained a compensable injury on _____, when she was struck by a shopping basket. The claimant continued to work until February 18, 2002, when her employment was terminated. Although disputed, the hearing officer found that the claimant had come to work on February 18, 2002, and was waiting to start work when her employment was terminated (and she reported her _____, injury).

The issue of whether the claimant sustained disability as defined in Section 401.011(16) presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence has established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, COMMODORE 1, SUITE 750
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge